



NEWS

Judicial Council of California
ADMINISTRATIVE OFFICE OF THE COURTS
Public Information Office
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Release Date: April 12, 2002

Release Number: S.C. 15/02

SUMMARY OF CASES ACCEPTED DURING THE WEEK OF APRIL 8, 2002

[This news release is issued to inform the public and the press of cases that the Supreme Court has accepted and of their general subject matter. The description or descriptions set out below do not necessarily reflect the view of the court, or define the specific issues that will be addressed by the court.]

02-60 Barnett on Habeas Corpus, S096831. Original proceeding. In this case, which is related to the automatic appeal in People v. Barnett (1998) 17 Cal.4th 1044, the court issued an order to show cause limited to the following issue: Should this court accept for filing, and consider the merits of a variety of pro se filings from a capital inmate notwithstanding the fact that the inmate is currently represented by counsel?

#02-61 Betancourt v. Storke Housing Investors, S103942. (B145835; 94 Cal.App.4th 709.) Petition for review after the Court of Appeal reversed a judgment of dismissal of a civil action. This case presents the following issue: Where the compensation paid laborers on a public works construction project includes contributions to their benefit plans and the laborers record a mechanic's lien to recover those contributions, is an action to enforce that lien under Civil Code section 3110 preempted by the federal Employment Retirement Income Security Act (29 U.S.C. § 1144 [ERISA])?

#02-63 Hameid v. National Fire Ins. of Hartford, S104157. (G026525; 94 Cal.App.4th 1155, mod. 95 Cal.App.4th 580a.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case includes the following issue: Does an insurer have a duty, under the "advertising injury" coverage of a comprehensive

(over)

general liability insurance policy, to defend its insured against an action alleging that the insured engaged in unfair competition by obtaining a competitor's customer list and customer preference information and then soliciting those customers through personal mailings and the placement of an advertisement in a local "Pennysaver" handout?

#02-64 People v. Cervantes, S104974. (B145387; 95 Cal.App.4th 598.) Petition for review after the Court of Appeal modified and affirmed a judgment of conviction of a criminal offense. The court ordered briefing deferred pending decision in People v. Acosta, S089120 (#00-104) and People v. Cornelius, S068743 (#00-94), which include the following issue: Can the same prior conviction be used to qualify a defendant for sentencing under the "one strike" law (Pen. Code, § 667.61) and the "three strikes" law (Pen. Code, §§ 667, subds. (b)-(i), 1170.12)?

#02-65 People v. Schlager, S104634. (C036624; 95 Cal.App.4th 259.) Petition for review after the Court of Appeal dismissed an appeal from a judgment of conviction of criminal offenses. The court ordered briefing deferred pending decision in People v. Buttram, S103761 (#02-39), which presents the following issue: When a defendant pleads guilty or no contest pursuant to an agreement that includes a maximum potential sentence and the trial court at a subsequent sentencing hearing imposes the maximum sentence, must the defendant obtain a certificate of probable cause in order to raise on appeal the claim that the trial court abused its discretion in imposing that sentence? (See Pen. Code, § 1237.5; Cal. Rules of Court, rules 31, 45.)

DISPOSITIONS

The following cases were dismissed and remanded to the Court of Appeal:

#01-60 People v. Burgess, S096583.

#01-78 People v. Castro, S097172.

STATUS

#02-54 Gerawan Farming, Inc. v. California Table Grape Commission, S103976.

#02-53 Wileman Bros. & Elliot, Inc. v. Lyons, S104020.

The court ordered briefing in these two cases deferred pending decision in Gerawan Farming, Inc. v. Lyons, S104019 (#02-52), which includes the following issues:

(1) What is the appropriate test under article I, section 2 of the state Constitution for

determining when the government may compel the funding of collective commercial speech? (2) Is the government interest in an agricultural product marketing order illusory if it allows the majority of those affected by the order, rather than the government, to decide how the program should operate?